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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET - SUITE 500

DENVER, CO 80202-2466

<http://www.epa.gov/region08>

JUN 7 2000

Ref: 8ENF-T

NOTICE OF DECISION NOT TO USE SPECIAL NOTICE PROCEDURESREMEDIAL INVESTIGATION/FEASIBILITY STUDY (RI/FS)URGENT LEGAL MATTERCERTIFIED MAIL: RETURN RECEIPT REQUESTED

ASARCO Incorporated
180 Maiden Lane
New York, NY 10038
Att:Legal Department

Re: Richardson Flat Tailings Site
Summit County, UT

Dear Sir or Madam:

The United States Environmental Protection Agency (EPA) hereby issues this Notice of Decision Not To Use Special Notice Procedures to ASARCO INCORPORATED(ASARCO) in connection with the Richardson Flat Tailings Superfund Site located in Summit County Utah (the "Site"), under Section 122 (e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA).

NOTICE OF POTENTIAL LIABILITY

This letter confirms notification of potential liability that ASARCO may incur or have incurred with respect to the above-referenced site, as defined by Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9607(a), as amended (CERCLA).

DECISION NOT TO USE SPECIAL NOTICE

In this instance, EPA has determined, consistent with Agency guidance, that it is inappropriate to invoke the Section 122(e) Special Notice Procedures. EPA believes that using such Special Notice Procedures would not facilitate an agreement between EPA and ASARCO and would not expedite response actions at the Site.

EPA believes the necessity of expeditiously reaching an agreement to conduct response actions at the Site, that the use of Section 122(e) Special Notice Procedures is inappropriate.

The decision not to use the Special Notice Procedures does not preclude Potentially Responsible Parties (PRP's) from entering into discussions with EPA regarding your participation in response activities at the Site. In fact, EPA invites ASARCO to enter into negotiations with EPA and the State of Utah at once. This decision simply means that EPA will not use the Special Notice Procedures to govern any future discussions.



GOOD FAITH OFFER AND NEGOTIATION SCHEDULE

A copy of the Draft Administrative Order On Consent For Focused Remedial Investigation and Feasibility Study (RI/FS) and Draft RI/FS Work Plan is enclosed. These are included to assist ASARCO in developing a good faith offer for RI/FS. ASARCO is encouraged to contact EPA within fourteen days (14) of receipt of this letter to indicate ASARCO's willingness to participate in discussions for the conduct of the RI/FS and to present to EPA a "good faith offer" to conduct the RI/FS and reimburse EPA for its response costs. A "good faith" offer is a written RI/FS proposal that demonstrates ASARCO's qualifications and willingness to conduct or partially finance the RI/FS and includes the following elements:

1. A statement of willingness to conduct or partially finance the amended RI/FS and provides a sufficient basis for further negotiations.
2. A statement of willingness to reimburse the United States of America for its response costs, including costs incurred in overseeing PRP conduct of the RI/FS.
3. The name, address, and telephone number of the party who will represent ASARCO in negotiations.

EPA and the State of Utah (the "State") desire that negotiations for performance of work at the site be conducted in a timely fashion. EPA and the State intend to conclude negotiations with ASARCO and, if successful, have an executed Consent Order by June 30, 2000. You should also be aware that this notification letter is also being sent to United Park City Mines Company, Noranda, Inc. and Atlantic Richfield Company. EPA encourages all PRPs to consider forming a steering committee to represent the groups interest.

DEMAND FOR PAYMENT

With this letter, EPA requests that ASARCO reimburse the United States for all past and future costs incurred by the United States in connection with the Site, including those to be incurred in the performance and oversight of the RI/FS at the Site.

As described above, EPA has undertaken actions and incurred certain costs in response to conditions at the Site. The cost of the response actions performed at the Site through EPA funding from October 1, 1980 through August 31, 1999, is approximately \$283,318.45. In accordance with Section 107(a) of CERCLA, demand is hereby made for immediate payment of the above amount plus any and all interest recoverable under Section 107 or any other provisions of law.

ASARCO's response to this notice letter should be sent to:

Matthew Cohn - ENF-L
U.S. Environmental Protection Agency
999 18th Street, Suite 500
Denver, CO 80202-2466
(303) 312-6853

If you have any questions pertaining to this matter, please direct them to Matthew Cohn, Attorney, EPA, Legal Enforcement Program at the number mentioned above or Jim Christiansen, EPA Remedial Project Manager at (303) 312-6748.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carol Rushin".

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Jim Christiansen, EPR-SR
Matthew Cohn, ENF-L
Gregory Phoebe, ENF-T